

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In Re: MICHAEL DOUGLAS GUNN,
Address: 8235 Hillstone Court
Mechanicsville, VA 23111

Debtor.

Case No: 11-31764-DOT

SUNTRUST MORTGAGE, INC.,

Plaintiff,

Chapter 13

v.

MICHAEL DOUGLAS GUNN,
HEATHER R. GUNN, Co-Debtor,
ROBERT E. HYMAN, Trustee,

Defendants.

NOTICE OF MOTION FOR RELIEF FROM AUTOMATIC STAY UNDER 11 U.S.C. SECTION
362 (d) AND 11 U.S.C. SECTION 1301 (c) (3)

SunTrust Mortgage, Inc., a creditor in this case, have filed papers with the Court to obtain relief from the provisions of the above stated automatic stays of the Bankruptcy Code with regard to certain property more particularly described in those papers which are attached.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant these creditors relief from the provisions of the automatic stay of the Bankruptcy Code, or if you want the Court to consider your views on the Motion for Relief from the Automatic Stay, then, on or before May 2, 2011, you, the above-named debtor and trustee and/or your attorney(s) and, on or before May 9, 2022, you, the above-named defendant co-debtor(s) and/or your attorney(s) must:

File with the Court, at the address shown below, a written response pursuant to Local Bankruptcy Rules 4001 (a)-1(C) and 9013-1(H). If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

William C. Redden, Clerk
U.S. Bankruptcy Court
Richmond Division
701 East Broad Street
Suite 4000
Richmond, VA 23219

You must also mail a copy of any such response to:

Jason L. Hamlin, Esquire
Melissa M. Watson Goode, Esquire
Glasser and Glasser, P.L.C.
Crown Center, Suite 600
580 East Main Street
Norfolk, Virginia 23510

Attend the preliminary hearing scheduled to be held on May 11, 2011 at 11:00 a.m. in the U.S. Courthouse, Room 5100, United States Bankruptcy Court, 701 East Broad Street, Richmond, VA 23219.

If no timely response has been filed opposing the relief requested, the Court may grant the relief requested in the Motion for Relief from Stay.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion for Relief from Automatic Stay and may enter an Order granting that relief.

Date: April 18, 2011

Signature: /s/Melissa M. Watson Goode

Name: Jason L. Hamlin, VSB #46931
Melissa M. Watson Goode, VSB #73516
Glasser and Glasser, P.L.C.
Crown Center, Suite 600
580 East Main Street
Norfolk, Virginia 23510

CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2011, a true copy of the foregoing Notice of Motion for Relief from the Automatic Stay was submitted for electronic transmittal to James E. Kane, Attorney for Debtor, and to Robert E. Hyman, Trustee, and was mailed, first class, postage prepaid to Michael Douglas Gunn, Debtor, at 8235 Hillstone Court, Mechanicsville, VA 23111 and to Heather R. Gunn, Defendant Co-Debtor, at 8235 Hillstone Court, Mechanicsville, VA 23111.

/s/Melissa M. Watson Goode

Jason L. Hamlin, VSB #46931
Melissa M. Watson Goode, VSB #73516
Glasser and Glasser, P.L.C.
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In Re:

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Plaintiff,

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v.

MICHAEL DOUGLAS GUNN,
HEATHER R. GUNN, Co-Debtor,
ROBERT E. HYMAN, Trustee,

Defendants.

MOTION FOR RELIEF FROM THE AUTOMATIC STAY
INCLUDING MOTION FOR RELIEF FROM CO-DEBTOR STAY
PURSUANT TO 11 U.S.C. SECTION 1301(c)(3)

TO MICHAEL DOUGLAS GUNN AND ROBERT E. HYMAN, DEFENDANTS:

Pursuant to Rule 4001(a)-1(C) of the Local Rules of the United States Bankruptcy Court of the Eastern District of Virginia, you have fourteen (14) days from April 18, 2011, the date of service of this Motion upon you, to file a written response thereto and you must file such response with the Clerk of the United States Bankruptcy Court, Richmond Division, 701 East Broad Street, Suite 4000, Richmond, VA 23219 and serve a copy of same upon the Plaintiff's attorneys, Jason L. Hamlin and/or Melissa M. Watson Goode, at Crown Center, Suite 600, 580 East Main Street, Norfolk, VA 23510.

Jason L. Hamlin, VSB #46931
Melissa M. Watson Goode, VSB #73516
Glasser and Glasser, P.L.C.
Crown Center, Suite 600
580 East Main Street
Norfolk, Virginia 23510
(757) 625-6787
Attorneys for SunTrust Mortgage, Inc.

Glasser and Glasser, P.L.C.
Crown Center, Suite 600
580 East Main Street
Norfolk, Virginia 23510-2212

TO HEATHER R. GUNN, DEFENDANT CO-DEBTOR:

Pursuant to Rule 4001(a)-1(G)(2) of the Local Rules of the United States Bankruptcy Court of the Eastern District of Virginia, you have twenty-one (21) days from April 18, 2011, the date of service of this Motion upon you, to file a written response thereto and you must file such response with the Clerk of the United States Bankruptcy Court, Richmond Division, 701 East Broad Street, Suite 4000, Richmond, VA 23219 and serve a copy of same upon the Plaintiff's attorneys, Jason L. Hamlin and/or Melissa M. Watson Goode, at Crown Center, Suite 600, 580 East Main Street, Norfolk, VA 23510.

TO THE HONORABLE DOUGLAS O. TICE, JR.:

Your Plaintiff, SunTrust Mortgage, Inc., respectfully represents as follows:

1. That this is a core proceeding within the meaning of the Bankruptcy Code and Rules.
2. That on March 17, 2011, the above-named Debtor filed a Petition in this Court.
3. That Robert E. Hyman was appointed Trustee of the property, has qualified and is now acting.
4. That at the time of the filing of the Debtor's Petition herein, the Debtor had an ownership interest in certain real property and improvements having an address of 8235 Hillstone Court, Mechanicsville, Virginia, located in the County of Hanover, Virginia, more particularly described as follows:

All that certain lot, piece or parcel of land, with all improvements thereon and thereto belonging, lying and being in Henry District, Hanover County, Virginia, designated as Lot 26, Block B, in Section IV, as shown on a plat entitled "Sherrington, Section IV, prepared by Youngblood, Tyler & Associates, P.C., dated February 7, 2002, recorded February 10, 2003, in the Clerk's Office, Circuit Court, Hanover County, Virginia, in Plat Book 36, page 554, to which plat reference is hereby made for a more particular description of the property being conveyed.

5. That the Plaintiff is the holder of a Deed of Trust Note dated December 30, 2003, in the original principal amount of \$201,050.00 with interest thereon from said date at the rate of 6.25% per annum, secured by a Deed of Trust on said real property and improvements recorded in the Clerk's Office of the Circuit Court of the County of Hanover, Virginia, on

which there is an unpaid approximate payoff balance owing to the Plaintiff of \$232,345.69 as of March 17, 2011, exclusive of accruing interest, subsequently accruing late charges, and the Plaintiff's attorney's fees and costs incurred incident to the filing and resolution of this Motion. True copies of said Deed of Trust Note and Deed of Trust are attached hereto and incorporated by reference as Exhibits "A" and "B", respectively.

6. That there is no equity in said real property and improvements for the Debtor's Bankruptcy estate based upon the valuation of said property established by the County of Hanover tax assessor of \$296,300.00 giving consideration for the Deed of Trust lien on said property held by the Plaintiff and the one other lienholders identified in the Debtor's Chapter 13 plan and adjusted for costs of sale of said property as a result of said valuation.

7. That the Debtor has defaulted in the payments due the Plaintiff in connection with the aforesaid Deed of Trust Note indebtedness totaling the sum of \$33,204.89, exclusive of attorney's fees and costs incident to the filing and prosecution of this Motion. The Plaintiff reserves the right to specify any additional payment default or delinquency that may accrue between the filing date of this Motion and the time of any hearings scheduled with regard to same.

8. That the Debtor, upon information and belief, does not wish to retain possession of the aforesaid real property and, accordingly, has provided for the surrender of same in the Debtor's Chapter 13 Plan. That in order to institute state foreclosure proceedings relative to the aforesaid real property and improvements, the Plaintiff is required to be relieved from the provisions of the automatic stays of the Bankruptcy Code which presently prohibit such foreclosure.

9. That Defendant, Heather R. Gunn, is a co-maker relative to the aforementioned Deed of Trust and the Plaintiff is prevented from pursuing its right to stay relief with regard to

the real property and improvements unless relief from stay is granted to the Plaintiff against said Defendant.

10. That in the event the Plaintiff is granted relief from stay hereunder, the Plaintiff, its successors and/or assigns, agents and/or representatives, requests that the Order granting said relief allow the Plaintiff, its successors and/or assigns, agents and/or representatives to send communications, as necessary, to the Debtor, including, but not limited to, notices required by applicable state law in connection with applicable State Court foreclosure or other proceedings incident to the aforesaid real property and improvements including any proceedings necessary to recover possession of same from the Debtor.

11. That the facts hereinabove alleged constitute cause for a grant of stay relief in favor of the Plaintiff pursuant to the provisions of 11 U.S.C. Section 362(d)(1) and 11 U.S.C. Section 362(d)(2) and are further grounds for relief pursuant to the provisions of 11 U.S.C. Section 1301(c)(2) and 11 U.S.C. Section 1301(c)(3).

WHEREFORE, Plaintiff prays that it be granted relief from the provisions of the automatic stays pursuant to U.S.C. Sections 362 and 1301 with regard to the above described real property and improvements including any act necessary to recover possession of same from the Debtor and Co-Debtor and that the stay of such grant of relief imposed pursuant to the provisions of Rule 4001(a)(3) of the Bankruptcy Rules be waived.

SUNTRUST MORTGAGE, INC.

By /s/Melissa M. Watson Goode
Of Counsel

CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2011, a true copy of the foregoing Motion for Relief from the Automatic Stay was submitted for electronic transmittal to James E. Kane, Attorney for Debtors, and to Robert E. Hyman, Trustee, and was mailed, first class, postage prepaid to Michael Douglas Gunn, Debtor, at 8235 Hillstone Court, Mechanicsville, VA 23111 and to Heather R. Gunn, Defendant Co-Debtor, at 8235 Hillstone Court, Mechanicsville, VA 23111.

/s/Melissa M. Watson Goode
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